



Board of Optometry
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CERTIFICATION

The undersigned, Mona Maggio hereby certifies as follows:

That she is the duly appointed, acting and qualified Executive Officer of the Board of Optometry of the State of California, and that in such capacity she has custody of the official records of said board.

On this seventeenth day of August 2012, the Executive Officer examined said official records of said Board of Optometry and found that **Scott Tyler Anderson** graduated from the Southern California College of Optometry, 2575 Yorba Linda Blvd., Fullerton, California and is the holder of Certificate of Registration to Practice Optometry No. 10279 which was granted to him effective September 22, 1994. On August 17, 2012, said Certificate of Registration is currently in full force and effect and will expire May 31, 2014. The current address of record for said Certificate of Registration is 24351 Avenida de la Carlota, Suite N-3, Laguna Hills, California, 92653.

Said records further reveal that on or about January 18, 2000, **Scott Tyler Anderson** became certified to utilize Therapeutic Pharmaceutical Agents and is authorized to diagnose and treat the conditions listed in subdivision (b), (d), and (e) of Section 3041.

Given under my hand and the seal of the State Board of Optometry, at Sacramento, California, this seventeenth day of August 2012.


Mona Maggio, Executive Officer

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9 **BEFORE THE**
STATE BOARD OF OPTOMETRY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. CC 2011 30

12 **SCOTT TYLER ANDERSON, O.D.**
13 **24351 Avenida de la Carlota, Suite N-3**
Laguna Hills, CA 92653

A C C U S A T I O N

14 **Optometrist License No. 10279**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

21 2. On or about September 22, 1994, the State Board of Optometry issued Optometrist
22 License Number 10279 to Scott Tyler Anderson, O.D. (Respondent). The Optometrist License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 May 31, 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the State Board of Optometry (Board), Department
27 of Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 3090 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter or any of the regulations adopted by the board. The board shall enforce and administer this article as to licenseholders, and the board shall have all the powers granted in this chapter for these purposes, including, but not limited to, investigating complaints from the public, other licensees, health care facilities, other licensing agencies, or any other source suggesting that an optometrist may be guilty of violating this chapter or any of the regulations adopted by the board.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session do not constitute a change to, but rather are declaratory of, existing law.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

9. Section 3110 of the Code states:

The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

....

(k) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of an optometrist, in which event the record of the conviction shall be conclusive evidence thereof.

(l) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or in a manner, as to be dangerous or injurious to the person applying for a license or holding a license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a license to conduct with safety to the public the practice authorized by the license, or the conviction of a misdemeanor or felony involving the use, consumption, or self administration of any of the substances referred to in this subdivision, or any combination thereof.

....

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1516, states:

(a) When considering the suspension or revocation of a certificate of registration on the grounds that the registrant has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

....

11. California Code of Regulations, title 16, section 1517 states:

For the purpose of denial, suspension, or revocation of the certificate of registration of an optometrist pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act shall be considered to be substantially related to the qualifications, functions, and duties of an optometrist if to a substantial degree it evidences present or potential unfitness of an optometrist to perform the functions authorized by his/her certificate of registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

(a) Any violation of the provisions of Article 2, Chapter 1, Division 2 of the Code (Sections 525 et seq. of the Code).

(b) Any violation of the provisions of Article 6, Chapter 1, Division 2 of the Code (Sections 650 et seq. of the Code) except Sections 651.4 and 654.

(c) Any violation of the provisions of Chapter 5.4, Division 2 of the Code (Sections 2540 et seq. of the Code).

(d) Any violation of the provisions of Chapter 7, Division 2 of the Code (Sections 3000 et seq. of the Code).

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1 **COST RECOVERY**

2 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(June 3, 1997 Criminal Convictions for DUI and Driving With Blood Alcohol Level**
8 **of 0.08% or More on March 16, 1997)**

9 13. Respondent is subject to disciplinary action under sections 490 and 3110, subdivision
10 (k), in that Respondent was convicted of a crime that is substantially related to the qualifications,
11 functions or duties of a licensed optometrist as follows:

12 14. On or about June 3, 1997, in the Superior Court of California, County of Orange,
13 Harbor Justice Center, in the matter entitled *People v. Scott Tyler Anderson*, Case
14 No. 97NS0847, Respondent was convicted on his plea of guilty of violating Vehicle Code
15 sections 23152(a) (DUI), and 23152(b) (driving with a blood alcohol content BAC of 0.08% or
16 more, misdemeanors).

17 15. As a result of the convictions, the Court placed Respondent on three (3) years
18 informal probation, restricted his California driver's license for 90 days, and ordered him to pay
19 various fines and fees in the amount of \$1,241, which amount remains outstanding.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(January 31, 2012 Criminal Conviction for Driving With Blood Alcohol Level**
22 **of 0.08% or More on July 8, 2011)**

23 16. Respondent is subject to disciplinary action under sections 490 and 3110, subdivision
24 (k), in that Respondent was convicted of a crime that is substantially related to the qualifications,
25 functions or duties of a licensed optometrist as follows:

26 17. On or about January 31, 2012, in the Superior Court of California, County of
27 Orange, Harbor Justice Center, in the matter entitled *People v. Scott Tyler Anderson*, Case
28

No. 11HM15802, Respondent was convicted on his plea of nolo contendere, of violating Vehicle Code section 23152(b) (driving with a blood alcohol content of 0.08% or more [0.33% BAC]), a misdemeanor, with an enhancement under Vehicle Code section 23538(b)(2) for having a BAC of 0.20% or more. Pursuant to a plea bargain, a charge of violating Vehicle Code sections 23152(a) (DUI) was dismissed.

18. As a result of the conviction, the Court placed Respondent on three (3) years informal probation and ordered Respondent to serve one day in the Orange County Jail, with one day credit for time served; serve 80 hours of community service; violate no laws; obey all orders, rules, regulations and directives of the Court; not drive with a measurable amount of alcohol in his blood; submit to chemical tests upon demand of any peace officer or probation officer; not drive without a valid driver's license in his possession or without proof of liability insurance or financial responsibility; use his true name and date of birth at all times; disclose terms of probation when asked by any law enforcement or probation officer; pay various fines and fees, and restitution; and enroll in and complete a 9-month Level 2 First Offender Alcohol Program.

19. The circumstances surrounding the conviction are that on July 8, 2011, at approximately 6:20 p.m., California Highway Patrol Officers were dispatched to a non-injury traffic collision on interstate 5 southbound south of Oso Parkway in Laguna Hills, California. Upon arrival, officers made contact with Respondent and observed that he was having difficulty keeping his balance as he walked around his vehicle. Officers detected an odor of an alcoholic beverage emitting from his breath. Officers asked Respondent if he had consumed alcohol, and Respondent told officers he had consumed three beers. Respondent failed sobriety tests and was transported to the Orange County Jail for booking. Respondent chose a blood test and blood was drawn for testing while at the county jail. Said results returned a BAC of 0.33%.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Use of Alcohol in a Manner Dangerous to Self or Others)

20. Respondent is subject to disciplinary action under Code section 3110, subdivision (I), in that he used alcoholic beverages to an extent or in a manner dangerous to himself, other persons, or the public when he drive a motor vehicle while impaired on two separate occasions, as

1 is more fully detailed at paragraphs 13 through 19, above, which are incorporated here by
2 reference.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the State Board of Optometry issue a decision:

6 1. Revoking or suspending Optometrist License Number 10279 issued to Scott Tyler
7 Anderson, O.D.

8 2. Ordering Scott Tyler Anderson, O.D. to pay the State Board of Optometry the
9 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
10 Professions Code section 125.3;

11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: *August 29, 2012* *Mona Maggio*

13 MONA MAGGIO
14 Executive Officer
15 State Board of Optometry
16 Department of Consumer Affairs
17 State of California
18 Complainant

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